

# **Exhibit 1**

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**From:** Richard Z. Wolf <rwolf@hmblaw.com>  
**Sent:** Tuesday, May 4, 2021 5:09 PM  
**To:** Allen, Justin A.  
**Cc:** Lemley, Gregg M.; Tharpe, Bradley (Brad) W.; Welply, Justin; Wacker, Brian; Matthew R. Barrett; O'Meara, Daniel P.  
**Subject:** RE: Maritz Holdings Inc. et al v. Carter et al - 4:21-cv-00438-MTS - working toward agreed expedited discovery protocol [ODNSS-UGL.016962.000036] [IWOV-iManage.FID779546]

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Justin –

As I made clear yesterday, we were hearing out your proposal and needed to discuss with our clients and co-counsel. There was no “tentative” agreement. We believe we proposed a plan earlier today that was more than reasonable and would allow for expedited discovery, but allowed for our motion to dismiss to be heard as well. We are not willing to agree to a process by which we are starting depositions and expending significant resources on document productions and forensic discovery prior to even being at issue on a sufficient complaint (particularly if you believe Maritz may be amending its complaint, as indicated in your email).

I am happy to discuss further, if you think it would be productive. If not, we are fine letting the judge decide the issue.

Rich

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**From:** Allen, Justin A. <justin.allen@ogletree.com>  
**Sent:** Tuesday, May 4, 2021 3:09 PM  
**To:** Richard Z. Wolf <rwolf@hmblaw.com>  
**Cc:** Lemley, Gregg M. <Gregg.Lemley@ogletreedeakins.com>; Tharpe, Bradley (Brad) W. <Bradley.Tharpe@ogletreedeakins.com>; Welply, Justin <JWelply@salawus.com>; Wacker, Brian <BWacker@salawus.com>; Matthew R. Barrett <MBarrett@hmblaw.com>; O'Meara, Daniel P. <dan.omeara@ogletreedeakins.com>  
**Subject:** RE: Maritz Holdings Inc. et al v. Carter et al - 4:21-cv-00438-MTS - working toward agreed expedited discovery protocol [ODNSS-UGL.016962.000036] [IWOV-iManage.FID779546]

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Rich,  
The Defendants' counterproposal is inconsistent with our discussions yesterday, and it represents a significant step backwards from what the parties tentatively agreed to.

Maritz will not agree to table document productions or forensic investigation while the parties address the forthcoming Motion to Dismiss. As you know, the federal pleading standard is a low one, and we believe Maritz's Complaint amply meets it here. We will not allow the Defendants to "slow play" the discovery and injunction proceedings while they pursue a longshot motion to dismiss. We also note that Rule 15 will provide Maritz with 21 days to amend the Complaint as a matter of right, if necessary. In short, the Motion to Dismiss is not a reason to delay discovery.

As we made clear during our call yesterday, Maritz's top priority in expedited discovery is to determine the scope of what your clients took, and ascertain any subsequent disclosure or use of that information in their new business. Our preliminary forensic investigation has already uncovered evidence of Drew Carter forwarding himself information on his way out the door, as well as his attempts to export his entire Maritz Outlook account on his last day of employment. You also acknowledged that your firm is currently "working on" obtaining forensic images (a process which takes just a few hours to complete), so it should be fairly straightforward to produce these to a forensic expert within the next ~3 weeks.

Finally, the notion that Maritz is somehow precluded from seeking a preliminary injunction and/or expedited discovery because it opted to forego a motion for temporary restraining order is entirely baseless. Rule 65 does not require a party to seek a TRO before pursuing a preliminary injunction. There is nothing improper or even unusual about Maritz's approach here, and the decision not to seek a TRO has no bearing on our ability to seek expedited discovery.

All of that said, we remain interested in resolving this issue without burdening the court with briefing and argument. To that end, we are willing to meet you in the middle with respect to the timing of requests, responses, and the submission of a protective order and forensic protocol. Here is our proposal:

- **Service of written discovery:** Due May 7, 2021
- **Submission of Joint Protective Order / Forensic Protocol:** Due May 14, 2021
- **Service of written discovery responses/objections:** Due May 21, 2021
- **Production of Documents/Images of Devices:** Due May 26, 2021
- **Depositions:** To be conducted between May 31 – June 11, 2021
- **Maritz's Brief in Support:** Due 14 calendar days prior to hearing
- **Defendants' Brief(s) in Opposition:** Due 7 calendar days prior to hearing
- **Maritz's Reply in Support:** Due 3 calendar days prior to hearing
- **Evidentiary Hearing Date:** At the Court's earliest availability, on or after July 5, 2021

We disagree that multiple days are necessary for the injunction hearing, but would agree to ask for an "overflow" date, if the court's schedule allows.

Please let us know the Defendants' response by close of business. If we cannot reach agreement by then, we'll plan to move forward with briefing and the hearing.

Thanks,

**Justin A. Allen | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**

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**From:** Richard Z. Wolf <[rwolf@hmblaw.com](mailto:rwolf@hmblaw.com)>

**Sent:** Tuesday, May 4, 2021 1:57 PM

**To:** Allen, Justin A. <[justin.allen@ogletreedeakins.com](mailto:justin.allen@ogletreedeakins.com)>

**Cc:** Lemley, Gregg M. <[Gregg.Lemley@ogletreedeakins.com](mailto:Gregg.Lemley@ogletreedeakins.com)>; Tharpe, Bradley (Brad) W.

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<[BWacker@salawus.com](mailto:BWacker@salawus.com)>; Matthew R. Barrett <[MBarrett@hmblaw.com](mailto:MBarrett@hmblaw.com)>; O'Meara, Daniel P.

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Justin –

Thank you for sending your proposal in writing. We had a chance to discuss further with our clients and to review in detail. Your proposal does not account at all for the motion to dismiss we are filing by the end of the week and, essentially, provides the entirety of what you asked for in your motion for expedited discovery with only limited modifications. In fact, your proposal would require a significant amount of time consuming and costly discovery to be completed before our motion to dismiss is addressed and presupposes that the judge is even inclined to allow you to pursue an expedited preliminary injunction hearing after foregoing a TRO.

In an effort to resolve your motion for expedited discovery, however, we have discussed with our clients and would be amenable to the following schedule:

- 5/10 – All parties to serve written discovery requests for discovery related to the PI motion (each party may serve 10 document requests and 10 interrogatories on any other party).
- 5/17 – Parties to have submitted agreed discovery protective order (or disputed issues submitted to the judge).
- 5/24 – Written discovery responses/objections to be exchanged.
- 5/31 – Parties to have forensic protocol in place (or disputed issues submitted to the judge).
- The exchange of document productions and any forensic images will then be conducted after a ruling on our motion to dismiss.
- We are agreeable to setting a preliminary injunction hearing date with the judge, with the understanding that we will build in time for depositions and any forensic discovery after a ruling on our motion to dismiss. We think we will need at least 2 days for the hearing, depending on the length of time the judge has each day. Briefing on the PI motion will be set based on the hearing date.

Please let us know if you would like to discuss further.

Rich



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**From:** Allen, Justin A. <[justin.allen@ogletree.com](mailto:justin.allen@ogletree.com)>

**Sent:** Monday, May 3, 2021 7:27 PM

**To:** Richard Z. Wolf <[rwolf@hmblaw.com](mailto:rwolf@hmblaw.com)>; O'Meara, Daniel P. <[dan.omeara@ogletreedeakins.com](mailto:dan.omeara@ogletreedeakins.com)>; Welply, Justin <[JWelply@salawus.com](mailto:JWelply@salawus.com)>; Wacker, Brian <[BWacker@salawus.com](mailto:BWacker@salawus.com)>; Matthew R. Barrett <[MBarrett@hmblaw.com](mailto:MBarrett@hmblaw.com)>

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Counsel,

Thanks again for your time today. Attached for your review is a draft stipulation and proposed order establishing the discovery and briefing timeline we discussed this afternoon.

Please let us know if you have any comments or proposed revisions. We would like to get this on file as soon as possible tomorrow (Tuesday) to avoid the need for briefing and the hearing this week.

We will also work on getting you a proposed protective order and forensic protocol in the next day or two.

Thanks,

**Justin A. Allen | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**

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**From:** Richard Z. Wolf <[rwolf@hmblaw.com](mailto:rwolf@hmblaw.com)>

**Sent:** Monday, May 3, 2021 10:56 AM

**To:** Allen, Justin A. <[justin.allen@ogletreedeakins.com](mailto:justin.allen@ogletreedeakins.com)>; O'Meara, Daniel P. <[dan.omeara@ogletreedeakins.com](mailto:dan.omeara@ogletreedeakins.com)>; Welply, Justin <[JWelply@salawus.com](mailto:JWelply@salawus.com)>; Wacker, Brian <[BWacker@salawus.com](mailto:BWacker@salawus.com)>; Matthew R. Barrett <[MBarrett@hmblaw.com](mailto:MBarrett@hmblaw.com)>

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2:30 ET / 1:30 CT today is fine. Thanks.

Rich



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**From:** Allen, Justin A. <[justin.allen@ogletree.com](mailto:justin.allen@ogletree.com)>

**Sent:** Monday, May 3, 2021 8:25 AM

**To:** Richard Z. Wolf <[rwolf@hmblaw.com](mailto:rwolf@hmblaw.com)>; O'Meara, Daniel P. <[dan.omeara@ogletreedeakins.com](mailto:dan.omeara@ogletreedeakins.com)>; Welply, Justin <[JWelply@salawus.com](mailto:JWelply@salawus.com)>; Wacker, Brian <[BWacker@salawus.com](mailto:BWacker@salawus.com)>; Matthew R. Barrett <[MBarrett@hmblaw.com](mailto:MBarrett@hmblaw.com)>

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Rich,

Let us know your availability for a call at 2:30 ET / 1:30 CT. If that does not work, please propose another time this afternoon. Thanks,

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**From:** Richard Z. Wolf <[rwolf@hmblaw.com](mailto:rwolf@hmblaw.com)>

**Sent:** Friday, April 30, 2021 11:37 AM

**To:** O'Meara, Daniel P. <[dan.omeara@ogletreedeakins.com](mailto:dan.omeara@ogletreedeakins.com)>; Welply, Justin <[JWelply@salawus.com](mailto:JWelply@salawus.com)>; Wacker, Brian <[BWacker@salawus.com](mailto:BWacker@salawus.com)>; Matthew R. Barrett <[MBarrett@hmblaw.com](mailto:MBarrett@hmblaw.com)>

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Dan – We are tied up this afternoon and Brian is out of town. We also need some time to discuss with our clients. Please let us know your availability for a call on Monday.

Rich



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**Sent:** Friday, April 30, 2021 9:26 AM

**To:** Welply, Justin <[JWelply@salawus.com](mailto:JWelply@salawus.com)>; Wacker, Brian <[BWacker@salawus.com](mailto:BWacker@salawus.com)>; Matthew R. Barrett <[MBarrett@hmblaw.com](mailto:MBarrett@hmblaw.com)>; Richard Z. Wolf <[rwolf@hmblaw.com](mailto:rwolf@hmblaw.com)>

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Gentlemen: this is to follow up on our judicial Zoom call of this morning, and to offer that counsel for Plaintiff can be available at 3:00 Central Time today--or another reasonable time if that works better for you--to seek to work up an agreed expedited discovery protocol, which would make unnecessary much of the paperwork counsel will be filing in the next week.

Let us know if you would like to proceed, and if so how (Zoom, audio call, etc)

**Dan O'Meara | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**

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